IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No. 146 of 2007
In
COMPANY PETITION No. 166 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MANAGER- SARASWAT CO.OP. BANK LTD. & 1 - Applicant(s)
Versus
OFFICIAL LIQUIDATOR- VIDHI INDUSTRIES LTD. & 4 - Respondent(s)

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Appearance :

MR PV NANAVATI for Applicant(s) : 1 - 2.MR VIBHUTI NANAVATI for Applicant(s) : 1 - 2.
OFFICIAL LIQUIDATOR for Respondent(s) : 1,
MR MRUGESH JANI for Respondent(s) : 1,
None for Respondent(s) : 2,
MR R.K.MANSURI for Respondent(s) : 3,
MR PRANAV G DESAI for Respondent(s) : 4,
MR MANISH R BHATT for Respondent(s) : 5,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 11/06/2007

ORAL JUDGMENT

1. Present Judge's Summons has been taken out by the applicants – Saraswat Cooperative Bank Limited and Shamrao Vithal Cooperative Bank Limited, claiming to be the secured creditors, for an appropriate order to confirm the sale of immovable property of land and building at Units Nos.1 and 2, 76/B, GIDC Industrial Estate, Vapi, S. Nos. 973/P, 974/P, 75/P, 832/P within the village limits of Vapi, Taluka Pardi, District Valsad, having land area of approximately 12542 sq mts and factory sheds, godowns etc. thereon and plant and machinery relating to manufacture of papers lying at above address in favour of M/s. Faze Three Limited (Land and Building) and Good Hope Plastic Industries (Plant and Machinery) in the sum of Rs.3,00,00,000/- and Rs.65,10,000/- respectively, on the terms and conditions specified in Sale Notice dated 2.1.2007 (Annexure – B to the application).

2. It is submitted that after the order was passed by this Court dated 9.10.2006 passed in Official Liquidator Report No.46 of 2006, the applicants banks were permitted to proceed further under the provisions of the Securitization Act for the purpose of enforcement of their charges as secured creditors on certain conditions and that they were directed to sale the properties of the company in liquidation in association with the Official Liquidator and that it was directed

that the applicants banks have valuation of the movable and immovable properties of the company charged with them and decide upset price or reserved price and the sale to be confirmed by this Court. It is submitted that accordingly after obtaining the fresh valuation, the aforesaid properties were put to auction and so far as land and building is concerned, one M/s. Faze Three Limited is found to be the highest offerer, who has offered to purchase the land and building of the company in liquidation for the sale consideration of Rs. 3 Crores and so far as the plant and machineries is concerned, one Good Hope Plastic Industries is found to be the highest offerer, who has offered to purchase the same for the sale consideration of Rs.65,10,000/-.

3. At the time of considering the present Company Application, the Official Liquidator brought to the notice of this Court one letter from M/s. ABC Consultant, who has offered to purchase the entire properties of the company in liquidation inclusive of land and building and plant and machineries for the sale consideration of Rs.3,70,00,000/- and therefore, this Court issued notice upon the said M/s. ABC Consultant, however, subsequently, it was submitted on behalf of the said M/s. ABC Consultant that they are not interested in proceeding further with

their offer and thereafter, Mr. M.R.Bhatt, learned advocate has appeared on behalf of the M/s. ABC Consultant and has filed the reply justifying their action in not proceeding further with their offer. Considering the fact that due to the letter written by M/s. ABC Consultant, the present proceedings were stalled and there was a delay, Shri M.R.Bhatt, learned advocate appearing for the said M/s. ABC Consultant has submitted that M/s. ABC Consultant would deposit Rs.10,000/- with the Registry of this Court and has requested this Court not to observe anything against the said M/s. ABC Consultant. Under the circumstances, M/s. ABC Consultant is directed to deposit an amount of Rs. 10,000/- with the Registry of this Court within a period of two weeks from today and on such deposit, the Registry is directed to transmit the said amount to the Gujarat State Legal Services Authority.

4. Now, so far as the merits of the present application is concerned, considering the offer of M/s. Faze Three Limited with respect to the land and building and the offer of Good Hope Plastic Industries with respect to the plant and machineries, the offer made by M/s. Faze Three Limited of Rs. 3 Crores for the land and building and the offer made by Good Hope Plastic Industries for purchase of plant and machineries

at Rs.65,10,000/- seems to be just and can be said to be a fair market price considering the valuation. Accordingly, so far as sale of land and building is concerned, the same is confirmed in favour of M/s. Faze Three Limited for a sale consideration of Rs. 3 Crores on the same terms and conditions of the Sale Notice. Similarly, so far as plant and machineries are concerned, the sale of the plant and machineries is confirmed in favour of Good Hope Plastic Industries for the sale consideration of Rs.65,10,000/- on the same terms and conditions as per the Sale Notice. The balance sale consideration to be paid by the aforesaid two purchasers within a period of 30 days from today and on full payment of full consideration, the Official Liquidator to hand over the possession of the plant and machineries and land and building to the concerned purchaser and to execute the sale-deeds and/or conveyance deeds. The parties to comply with all the terms and conditions of the Sale Notice dated 2.1.2007 (Page – 32, Annexure – B to the application).

5. This application is accordingly disposed of.

[M.R.Shah, J.]

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